IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 7961 of 2004

Between:

Mrs. M.Vijaya Laxmi W/o K.Manoharam
D.No.118-F, Gandhi Road, Arakkonam Vellore Dist

..... PETITIONER

AND

1 The Secreatry, Regional Transport Authority Kakinda, East Godavari Dist
2 The Assistant Motor Vehicle Inspector, Kathipudi Check Post, East Godavari District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or direction more particularly writ in the nature of writ of Certiorari calling all the connected records including the Vehcile Check Report dt. 8/08/2003 and consequential proceedings dt. 19/04/2004 in vide Proceedings notice R.No.6735/A1/2003 of the 1st respondent and quash the same as illegal, improper, unjust and arbitrary and contrary to the judgment reported in 2004(2) ALT 210(L.B) and further declare that the petitioner is entitled to get back the amount of Rs. 60,000/- with interest deposited for release of the vehicle.

Counsel for the Petitioner:MR.K.UMAPATHY

Counsel for the Respondents : SPL GP FOR TAXES

The Court at the stage of admission, made the following :

ORDER : (Per Sri Bilal Nazki, J)

Heard learned Counsel for the parties, who submit that the controversy in this Writ Petition is covered by a Larger Bench judgment of this Court, in *L.Royal Reddy & others Vs. Government of A.P., Transport, Roads and Buildings (Tr.II) Department and others*.

The petitioner's vehicle was originally registered as "Idle Contract Carriage". The allegations against the petitioner were that she misused the vehicle and after enquiry, the petitioner was charged tax at the rate of Rs.2,500/- per seat per quarter, changing the conditions of permit itself and treating it as a contract carriage. The controversy was settled by this Court in the above judgment that once the conditions of permit are violated, the remedy is not to change the conditions of permit itself, but to proceed for violation of the conditions, in accordance with law.

Following the same judgment, we set aside the order, allow the writ petition, give liberty to the respondents to proceed against the petitioner for violation of conditions of permit, if they so choose. If any amounts have been collected from the petitioner in pursuance of the demand notice or before the issuance of demand notice, the same may be refunded to her. No costs.

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(BILAL NAZKI, J)

7th September, 2004.

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(S.ANANDA REDDY, J)

ajr

To

1 The Secreatry, Regional Transport Authority Kakinda, East Godavari Dist
2 The Assistant Motor Vehicle Inspector, Kathipudi Check Post, East Godavari

District

3 Two C.Cs. to the Special GP for Taxes, High Court buildings,

Hyderabad (O.U.T)

4 Two C.D. copies.